

**INSTANT TICKET PRINTING
AND ASSOCIATED SERVICES AGREEMENT**

THIS INSTANT TICKET PRINTING AND SERVICES AGREEMENT (the "Agreement") is made and entered into this 20th day of January, 2004 (the "Effective Date"), by and between the TENNESSEE EDUCATION LOTTERY CORPORATION ("TEL"), a public corporation and state instrumentality created pursuant to the Tennessee Education Lottery Implementation Law (T.C.A. §§ 4-51-101 et seq.) (as may be amended from time to time, the "Act"), and SCIENTIFIC GAMES INTERNATIONAL, INC., a Delaware Corporation ("Vendor").

W I T N E S S E T H:

WHEREAS, the TEL was created to organize and operate a lottery in the State of Tennessee (the "Lottery");

WHEREAS, Vendor, on behalf of itself and its "Subcontractors" (as defined in Section 3(a) hereof) (Vendor and Subcontractors being sometimes referred to collectively as the "Vendor Team"), submitted the proposal, dated October 27, 2003, incorporated herein by this reference (the "Proposal"), to the TEL in response to the TEL's Request for Proposals for Instant Ticket Printing and Associated Services, dated October 3, 2003, incorporated herein by this reference (the "RFP"), as interpreted by TEL's answers to questions concerning the RFP, which were made available by the TEL on October 13, 2003, incorporated herein by this reference (the "Questions and Answers"); and

WHEREAS, subject to the terms and conditions hereinafter set forth, the TEL desires to retain Vendor to provide instant ticket products and services to the TEL, and Vendor desires to provide such instant ticket products and services for TEL;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto hereby agree as follows:

1. SERVICES

Subject to the terms and conditions set forth in this Agreement, the TEL retains Vendor to provide the instant ticket products and services to the TEL as contemplated by this Agreement, the Questions and Answers, the RFP and the Proposal, and Vendor agrees to render the instant ticket products and services to the TEL. Notwithstanding anything herein to the contrary, in the event of an inconsistency or conflict among this Agreement, the Proposal, the Answers and/or the RFP, the terms of this Agreement, as may be amended from time to time in accordance herewith, shall control the Answers, the terms of the Answers shall control the RFP, the terms of the RFP shall control the Proposal, and the Act shall control the Proposal.

2. DUTIES AND RESPONSIBILITIES OF THE VENDOR TEAM

(a) The members of the Vendor Team will work in conjunction and cooperation with the TEL and the other vendors, subcontractors, employees, agents, retailers and consultants of the TEL. The members of the Vendor Team will provide Instant Ticket Products and Services to the TEL as detailed in this Agreement, the RFP, the Answers and the Proposal and will perform such specific services (which constitute part of the Instant Ticket Products and Services) as requested, from time to time, orally or in writing, by the Chief Executive Officer (the "CEO"), or the CEO's designee(s). Except as otherwise set forth herein, Vendor agrees that all products and services to be provided to the TEL

under this Agreement shall be capable of the full level of capacity and capability required by this Agreement, the RFP, the Questions and Answers and the Proposal.

(b) The members of the Vendor Team shall meet regularly with the CEO or his/her designee(s) and shall establish work plans, implementation schedules and timetables for completion as and when required by the CEO or his/her designee(s).

(c) Vendor hereby agrees to use its best efforts to make available to the TEL, to the extent required for the effective and timely performance of its obligations under this Agreement, such of its employees, and the employees of the other members of the Vendor Team, as may be necessary or appropriate for the timely performance of the obligations of the Vendor Team pursuant to this Agreement. No such employee of any member of the Vendor Team shall undertake or participate in, during the term of this Agreement, any other engagement that will unreasonably interfere with the completion of the work contemplated by this Agreement. Vendor will provide to the TEL, as requested from time to time, written reports of the names and work schedules of the employees of the Vendor Team who will be performing services pursuant to this Agreement.

(d) The TEL and the Vendor Team will cooperate to ensure that the duties and responsibilities of all vendors providing goods and services to the TEL are efficiently allocated in a manner mutually agreed upon by the Vendor and the TEL. The Vendor Team will cooperate with the vendor selected to provide online gaming systems for the Lottery) with regard to programming requirements and the sharing of algorithms, and other matters of joint participation, as deemed reasonably necessary by the TEL.

3. SUBCONTRACTORS

(a) No member of the Vendor Team will subcontract or otherwise assign any or all of its duties or obligations under this Agreement to any individual or entity without the prior written consent of the TEL in each instance, which consent may be withheld in the TEL's sole discretion. Vendor will provide the TEL with the name, qualifications, experience and expected duties of each proposed subcontractor under this Agreement each time it desires to retain a subcontractor. Any subcontractor that is approved by the TEL for work pursuant hereto will become a "Subcontractor" for purposes hereof and must execute such agreements or other documentation as may be necessary pursuant to the Act or as the TEL may require. Vendor agrees that it will obtain the prior consent of the CEO or his/her designee(s) prior to having any Subcontractor perform any activities for TEL under this Agreement.

(b) Upon the request of the TEL, Vendor will promptly provide the TEL with copies of all subcontracts and other agreements entered into by Vendor with respect to its obligations under this Agreement. No such subcontract or other agreement may contain any terms or conditions inconsistent or in conflict with the terms and conditions contained in this Agreement. In the event of any such inconsistent or conflicting provisions, such inconsistencies or conflicts will be resolved in favor of this Agreement.

(c) The TEL shall have the right, at any time and from time to time, to instruct Vendor not to use the services of any Subcontractor, individual or employee in connection with the work to be performed for the TEL under this Agreement, and Vendor agrees to comply with all such instructions.

(d) Notwithstanding anything herein to the contrary, Vendor will remain fully liable and responsible for all work to be performed under this Agreement, whether or not subcontracted to or

performed by a Subcontractor or any other person or entity retained by Vendor or under Vendor's control, and Vendor will ensure the compliance of its employees, and of each Subcontractor and such Subcontractor's employees, with the terms of this Agreement, the Act and all other applicable laws which govern the performance of services pursuant to this Agreement and such other standards or policies as the TEL may establish from time to time.

4. INDEPENDENT CONTRACTOR

(a) Both the TEL and Vendor, in the performance of this Agreement, will be acting in their own separate capacities and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees, agents or partners of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons or any damage to any property or other claim arising out of the acts or omissions of the other party or any of its agents, employees or subcontractors. It is expressly understood and agreed that Vendor is an independent contractor of the TEL in all manners and respects and that no member of the Vendor Team is authorized to bind the TEL to any liability or obligation or to represent that it has any such authority.

(b) Vendor shall be solely responsible for all payments to Subcontractors and all compensation, withholding taxes and benefits for its employees and for providing all necessary unemployment and workmen's compensation insurance for its employees.

5. COMPENSATION

(a) As full and complete compensation for all goods and services provided by the Vendor Team pursuant to this Agreement, the TEL will pay Vendor, and Vendor will accept on behalf of the entire Vendor Team, an amount equal to one and one hundred thirty-nine thousandths percent (1.139%) of the total face value of "Adjusted Activated Tickets" (as hereinafter defined) for the applicable "Week" (as hereinafter defined). For purposes of this Agreement, "Adjusted Activated Tickets" shall mean: (i) the total number of tickets activated for sale pursuant to this Agreement during the applicable Week; less (ii) the total number of promotional tickets which are activated for sale pursuant to this Agreement during such Week; and less (iii) the total number of activated tickets returned during such Week (regardless of when activated). This compensation formula is effective as of the "Instant Ticket Implementation Date" (as hereinafter defined). For purposes of this Agreement, "Instant Ticket Implementation Date" means January 20, 2004. For purposes of this Section 5, a "Week" shall mean the period from the beginning of operations on Sunday morning and ending the following Sunday morning at the close of operations.

(b) Vendor and the TEL agree that appropriate adjustments shall be made for ticket inventory at the end of the term of this Agreement. In the event that there is a new instant ticket printing and related services provider, Vendor shall make available for sale to the TEL tickets in its inventory printed for the TEL. Vendor and the TEL shall agree to a ticket purchase price, at a cost per thousand, equivalent to the then current market price for Vendor's tickets with comparable specifications in comparable quantities.

(c) Subject to the availability of funds and any other restrictions imposed by the Act or this Agreement, TEL will pay to Vendor all uncontested amounts due under this Agreement on a weekly basis, within fourteen (14) days of the end of the Week for which payment is made, subject to setoff or offset for all sums owed by the Vendor Team to the TEL.

6. TERM

(a) Unless sooner terminated in accordance with the provisions of Section 19 of this Agreement, and subject to the provisions of Section 26 hereof, the term of this Agreement shall commence as of the Effective Date of this Agreement and shall continue until close of operations on April 9, 2011 (the "Expiration Date"). The TEL shall compensate the Vendor for approximately seven years (7) commencing on the first date of sale of instant tickets and ending on the Expiration Date (unless earlier terminated pursuant to the terms of this Agreement).

(b) Vendor acknowledges that it is the present intention of the TEL to award, prior to the expiration of the term of this Agreement, a new contract or contracts for replacement of the Instant Ticket Products and Services provided by Vendor under this Agreement, and that Vendor has no right or expectation in or to any such new contract(s) unless Vendor is selected as the vendor thereunder. Vendor agrees that the TEL may use the final one hundred eighty (180) days of the term of this Agreement to convert to the use of such replacement products and services. Vendor shall cooperate fully and in good faith and shall assist the TEL and the new contractor, if Vendor is not selected as the new contractor, to the extent reasonable and practical, to accomplish such conversion in a timely and efficient manner, at no additional cost to the TEL or such new contractor.

7. WORK STANDARD

(a) Vendor hereby agrees that all members of the Vendor Team shall at all times comply with and abide by all terms and conditions set forth in this Agreement, the applicable Regulations, Policies and Procedures of the Tennessee Education Lottery Corporation (as may be amended from time to time, the "TEL Policies"), and all requirements of the Act. Vendor further agrees that all members of the Vendor Team shall perform their respective duties and responsibilities as set forth in this Agreement by following and applying the highest professional and technical guidelines and standards.

(b) Vendor hereby agrees that all members of the Vendor Team will perform their respective duties and responsibilities as set forth in this Agreement with integrity and dignity and free from political influence, collusion and fraud. Vendor further agrees that no members of the Vendor Team will solicit or accept, or attempt to solicit or accept, any bribes or other inducements from any offeror, supplier, manufacturer or subcontractor in connection with the performance of its obligations under this Agreement.

(c) If the TEL becomes dissatisfied with the work product of, or the working relationship with, any of the individuals assigned to perform services under this Agreement by any member of the Vendor Team, the TEL may require, by a writing signed by the CEO or his/her designee(s), or other appropriate means of notification, the replacement of any or all of such individuals as soon as is reasonably practicable. Personnel identified in the Proposal as performing services under this Agreement will continue to perform such services in their designated capacities until such services are completed unless they cease to be employed by a member of the Vendor Team or unless the TEL requests their removal, in which case a person or persons of suitable competency and acceptable to the TEL, in its discretion, will be substituted within thirty (30) days of receipt of notice of the CEO requiring such replacement.

(d) Nothing in this Section 7 shall be construed to prevent Vendor from using the services of others to perform tasks ancillary to those tasks that directly require the expertise of such key personnel, including secretarial, clerical and common labor duties. Vendor shall at all times remain

responsible for the performance of all necessary tasks under the scope of this Agreement, whether performed by Subcontractors, key personnel or other workers.

(e) Nothing in this Agreement shall prohibit the TEL from retaining the services of any individual or entity to perform any services on its behalf, whether or not such or similar services were initially contemplated to be performed by a member of the Vendor Team. The TEL is not prohibited by this Agreement from retaining the services of any individual or entity to perform any services it requires, and it is under no obligation to exclusively use the services of the Vendor Team.

(f) Vendor shall designate an individual, who is acceptable to the TEL, as Vendor's primary contact with the TEL for purposes of this Agreement.

8. PROGRESS REPORT AND IMPLEMENTATION PLAN

To assure the TEL that its work under this Agreement is progressing and is being performed in a manner consistent with the TEL's wishes, Vendor will meet with the CEO or designee daily during implementation and at least weekly thereafter. If requested, Vendor shall submit written progress reports to the TEL covering all work performed by all members of the Vendor Team, in form and substance satisfactory to the CEO.

9. CHANGES IN WORK; AMENDMENTS

(a) By written order by the CEO or his/her designee(s) to the Vendor, the TEL may, from time to time, make changes in the services to be provided by the Vendor Team or the manner or place of delivery or performance of such services or any requested deliverables; provided, however, to the extent any such changes in services or deliverables are outside the scope of any of this Agreement, the RFP, the Answers or the Proposal, the TEL and Vendor shall in good faith negotiate mutually acceptable terms and compensation, which shall be memorialized in a written amendment to this Agreement clearly detailing the additions, deletions, and modifications thereto, and signed by both parties.

(b) The applicable members of the Vendor Team shall promptly comply with such change order(s) and take all necessary or appropriate actions to effect such change.

(c) Failure to agree to any change shall constitute a "dispute" under Section 22 hereof.

10. BOOKS AND RECORDS

(a) Within six (6) months of the end of the Vendor's fiscal year, the Vendor shall provide to the TEL a copy of its audited financial statements for such year, together with the opinion of its independent public accounting firm with respect to such financial statements. In the event such an opinion is not expressed without reservation or qualification with respect to Vendor's audited financial statements, and the reasons for any such reservation or qualification are determined by the TEL, in its sole and reasonable judgment, to be reasonably likely to materially and adversely affect the performance of Vendor under this Agreement, Vendor shall be deemed to have breached this Agreement, which shall give rise to the TEL's termination rights pursuant to Section 19 of this Agreement.

(b) The Vendor Team shall maintain documentation for all charges against the TEL under this Agreement or any modifications or amendments thereto. The books, documents, papers, accounting records and other evidence pertaining to products and/or services to be provided or performed

or money received under this Agreement (A) shall be maintained for a period of five (5) full years from the date of the final payment and (B) shall be subject to audit or inspection at any reasonable time and upon reasonable notice by the TEL or its duly appointed representatives, including without limitation the Comptroller of the Treasury of the State of Tennessee. Vendor shall make such materials available at its offices, and copies thereof shall be furnished to the TEL or its duly appointed representative by the Vendor, at no cost to the TEL or its duly appointed representative, if requested by the TEL or its duly appointed representative. Such records shall be maintained in accordance with any applicable provisions of generally accepted accounting principles (or other applicable accounting principles or policies) and any other applicable procedures established by the TEL from time to time.

11. CONFIDENTIALITY; OWNERSHIP OF WORK PRODUCT

(a) For purposes of this Agreement, “TEL Confidential Information” means any and all items or information of the TEL which are: (i) marked “Confidential” or some such similar designation; or (ii) valuable, proprietary and confidential information belonging to or pertaining to the TEL or the Lottery that does not constitute a “Trade Secret” (as defined under applicable law) and that is not generally known to the public but is generally known only to the TEL and those of its employees, independent contractors or agents to whom such information must be confided for business purposes, including, without limitation, information regarding the TEL’s customers, suppliers, manufacturers and distributors. Notwithstanding the foregoing, TEL Confidential Information shall not include TEL information that is: (A) documented as being generally known to the public other than due to a disclosure by Vendor or any member of the Vendor Team; (B) documented as being already known to Vendor at the time it is disclosed by the TEL to Vendor; (C) documented as having been independently developed by Vendor; (D) documented as having been received by Vendor from a third party that Vendor believed in good faith had the right to make such disclosure; or (E) subject to disclosure under the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-101 et seq. (the “Public Records Act”)

(b) For purposes of this Agreement, “Vendor Confidential Information” means any and all items or information of Vendor which are: (i) marked “Confidential” or some such similar designation; or (ii) valuable, proprietary and confidential information belonging to or pertaining to Vendor that does not constitute a trade secret and that is not generally known to the public but is generally known only to Vendor and those of its employees, independent contractors or agents to whom such information must be confided for business purposes, including, without limitation, information regarding Vendor’s customers, suppliers, manufacturers and distributors. Notwithstanding the foregoing, Vendor Confidential Information shall not include Vendor information that is: (A) documented as being generally known to the public other than due to a disclosure by the TEL; (B) documented as being already known to the TEL at the time it is disclosed by Vendor to the TEL; (C) documented as having been independently developed by the TEL; or (D) documented as having been received by the TEL from a party that the TEL believed in good faith had the right to make such disclosure.

(c) Vendor acknowledges that the TEL is subject to the Public Records Act. In view thereof, the parties agree that the TEL shall advise Vendor of any request for inspection of records under the Public Records Act that seeks Vendor Confidential Information prior to making a decision to disclose such information and provide Vendor with an opportunity to respond to such request. If the TEL determines that any such Vendor Confidential Information should be disclosed, the TEL shall promptly so notify Vendor and shall not disclose the information until 4:30 p.m. of the third business day following the date the Public Records request was originally received by the TEL, unless earlier disclosure is required under the Public Records Act. Unless otherwise required by court order or direction, no disclosure shall be made while legal proceedings regarding the issue of disclosure are pending. Any disclosure may be made under such limiting conditions, as the TEL shall determine appropriate.

(d) In recognition of the need of the TEL to protect its legitimate business interests, Vendor hereby covenants and agrees that with regard to any: (i) TEL Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) Trade Secrets, at all times such information remains a “trade secret” under applicable law, Vendor and all other members of the Vendor Team will regard and treat all such items or information as strictly confidential and wholly owned by the TEL and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such TEL Confidential Information or Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement or pursuant to the instructions from a duly authorized representative of the TEL. In addition, to the extent the Act or any other applicable law imposes any greater restrictions or prohibitions with respect to any TEL Confidential Information, Trade Secrets or other information or property of the TEL, Vendor covenants and agrees that it and all members of the Vendor Team shall comply with such greater restrictions or prohibitions. To ensure the compliance by it and all members of the Vendor Team with the provisions of this Section 11(d), Vendor shall use its best efforts, including, without limitation, obtaining written confidentiality agreements with all other members of the Vendor Team which incorporate requirements no less restrictive than those set forth herein and which contain provisions which permit the TEL to independently enforce the requirements set forth in such agreements.

(e) In recognition of the need of Vendor to protect its legitimate business interests, the TEL hereby covenants and agrees that with regard to any: (i) Vendor Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) Vendor trade secrets (as defined by applicable law), at all times such information remains a “trade secret” under applicable law, the TEL will regard and treat all such items or information as strictly confidential and wholly owned by Vendor and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such Vendor Confidential Information or Vendor “trade secrets” to any individual or entity for any purpose other than in accordance with this Agreement, pursuant to the instructions from a duly authorized representative of Vendor or except to the extent necessary to fulfill the purposes of this Agreement or conduct the Tennessee Lottery. The TEL shall not be liable, however, to Vendor or to any other person or entity, if despite the TEL’s best efforts, Vendor Confidential Information is disclosed in breach of the foregoing. Notwithstanding anything herein to the contrary, the entirety of Section 1.5 of the RFP shall supersede and control any provision of this Agreement with respect to the subject matter of Section 1.5, and the TEL’s obligations and liabilities shall never be greater than as set forth in Section 1.5 of the RFP with respect to the subject matter thereof.

(f) All work product, property, data, documentation or information or materials conceived, discovered, developed or created by Vendor or any member of the Vendor Team pursuant to this Agreement exclusively and specifically for the TEL and solely for the TEL’s ownership and use (collectively, the “Work Product”) shall be owned exclusively by the TEL. Notwithstanding the foregoing, nothing contained herein shall limit or be deemed to limit any member of the Vendor Team’s intellectual property ownership rights in its proprietary software systems, tickets and deliverables that are generally provided to its customers. To the greatest extent possible, any Work Product shall be deemed to be a “work made for hire” (as defined in the Copyright Act, 17 U.S.C.A. § 101 et seq., as amended) and owned exclusively by the TEL. Vendor hereby unconditionally and irrevocably transfers and assigns to TEL, and Vendor shall cause all members of the Vendor Team and others it or members of the Vendor Team retains to irrevocably transfer and assign to the TEL, all right, title and interest in or to any Work Product, including, without limitation, all patents, copyrights, trade secrets, trademarks, service marks and other intellectual property rights therein, including all rights, title and interest in and to it and all drafts, revisions, arrangements, adaptations, derivative works, and other versions of the Work Product

that may heretofore have been created or that may hereafter be created and any other rights subsequently created. The TEL, or its designee(s), shall have the exclusive right to secure registration and protection of the Work Product in its name, or otherwise, as the TEL may desire, as the author and owner of the Work Product and to secure any and all renewals and extensions of copyright, trademark and service mark, if any, throughout the world under any present or future laws. Vendor expressly and forever waives, and shall cause all members of the Vendor Team to expressly and forever waive, any and all moral rights any of them may have in the Work Product in favor of the TEL. Vendor agrees to execute and deliver to the TEL, and to cause all members of the Vendor Team and others it or members of the Vendor Team retains to execute and deliver, any transfers, assignments, documents or other instruments which the TEL may deem necessary or appropriate, from time to time, to vest complete title and ownership of any Work Product exclusively in the TEL. Without limiting the generality of the forgoing, the TEL and/or its designee(s) shall have all rights of a copyright owner of the Work Product as set forth in Section 106 of the Copyright Act (17 U.S.C.A. § 101 et seq., as amended). If, at any time, Vendor or any member of the Vendor Team is granted the right to recapture any right, title or interest in or to the Work Product by any present or future law throughout the world, Vendor hereby agrees and shall cause each member of the Vendor Team to agree to reassign such right, title or interest to the TEL for the entire duration of such right, title or interest. During the performance of the services specified herein, Vendor shall be responsible for any loss or damage to any Work Product while in the possession of Vendor or any member of the Vendor Team, and any loss or damage thereto shall be restored at Vendor's expense. The TEL shall have full, immediate and unrestricted access to all Work Product during the term of this Agreement.

(g) The TEL hereby grants to Vendor a fully paid-up, non-exclusive, perpetual and transferable license to use, sublicense, modify and create derivative works of software, hardware, equipment, firmware and mask works which are owned by the TEL and created solely by Vendor or member of the Vendor Team, and which constitute Work Product (the "Created Work Product Items"). While the TEL has the free right to use, modify and create derivative works of such Created Work Product Items for its own use, it agrees not to license any of the rights licensed to Vendor to any other entity unless Vendor: (i) ceases to function as a going concern; (ii) files, or has filed against it, any bankruptcy or insolvency proceeding of any kind; (iii) dissolves, liquidates or otherwise ceases its corporate existence; (iv) makes an assignment for the benefit of its creditors; or (v) Vendor announces it will cease, or actually ceases, to perform continuing maintenance, support or enhancement services with regard to Created Work Product Items (any of the foregoing events being defined as a "Material Event"). Upon the occurrence of any Material Event, the license granted by this Section 11(g) to Vendor with respect to the Created Work Product Items, and any restrictions of the TEL's rights with respect to such Created Work Product Items set forth in this Section 11(g) shall immediately terminate and cease, and the TEL shall have the right, without limitation, to grant to another entity a license to use, modify and create derivative works of Created Work Product Items for the use or benefit of the TEL.

(h) Vendor grants to the TEL a non-assignable, non-sub-licensable, royalty free license to use in Tennessee any and all proprietary materials owned by it and used in connection with the performance of the Contract, and the Vendor agrees to grant to the TEL the necessary rights and authority to modify such proprietary materials in any manner the TEL deems necessary. It is the intent of the TEL that it have control over all such proprietary materials in a manner consistent with ownership thereof.

12. COMMITMENT TO NONDISCRIMINATION

(a) Each member of the Vendor Team hereby covenants and agrees that no person shall (A) be excluded from participation in, or be denied benefits of, this Agreement, or (B) be excluded from employment, denied any of the benefits of employment or otherwise be subjected to discrimination

on the grounds of handicap or disability, age, race, color, religion, sex, national origin or ancestry, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Vendor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. The Vendor's breach of this covenant shall constitute a material breach of this Agreement.

(b) Any and all contracts executed by and between the Vendor and any other member of the Vendor Team shall specifically state that no member of the Vendor Team shall discriminate against any employee or applicant for employment because of his or her handicap or disability, age, race, color, religion, sex, national origin or ancestry, or any other classification protected by federal, Tennessee state constitutional, or statutory law. Vendor's breach of this covenant, or Vendor's failure to enforce against the other members of the Vendor Team any provision of such covenant, shall constitute a material breach of this Agreement.

(c) Each member of the Vendor Team shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, disability, national origin or ancestry.

(d) Consistent with the Act, TEL Policies, and the TEL EBO Program, Vendor agrees to make every reasonable effort to include participation by minority businesses in the performance of its services pursuant hereto. Specifically, and without limitation, any human resources services performed for the TEL or the Vendor will include appropriate attention to the hiring and training of qualified minority applicants in accordance with the Act and all policies and procedures adopted by the TEL from time to time. In addition, in accordance with the Act, Vendor agrees to strive to maximize participation of minority-owned businesses to assist the TEL in achieving the statutory minimum goal of fifteen percent (15%).

(e) Consistent with the Act and the TEL Policies, and in accordance with the RFP Section 4.14, Commitment to Non-Discrimination, Vendor has submitted the response to such Section, along with EBO Form B, copies of which are attached hereto as Exhibit A and incorporated herein by reference.

13. LIMITATION OF LIABILITY

THE PAYMENT OBLIGATIONS UNDERTAKEN BY THE TEL UNDER THIS AGREEMENT ARE SUBJECT TO THE AVAILABILITY OF FUNDS TO THE TEL. THERE SHALL BE NO LIABILITY ON THE PART OF THE TEL EXCEPT TO THE EXTENT OF THEN AVAILABLE FUNDS PERMITTED TO BE PAID FROM THE PROCEEDS OF LOTTERY OPERATIONS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WILL THE STATE OF TENNESSEE, ITS GENERAL FUND OR ANY OF ITS AGENCIES OR POLITICAL SUBDIVISIONS BE RESPONSIBLE OR LIABLE AS A RESULT OF THIS AGREEMENT OR ANY LIABILITY CREATED HEREBY OR ARISING HEREUNDER.

14. ANTITRUST ACTIONS

Vendor hereby conveys, sells, assigns and transfers to the TEL all of its right, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States of America and the State of Tennessee relating to the Instant Ticket Products and Services acquired by the TEL under this Agreement.

15. COMPLIANCE WITH LAWS

Vendor agrees to comply with all applicable rules, procedures and regulations adopted from time to time by the TEL under the Act, including but not limited to the TEL Policies, and all other applicable federal, state and local laws, rules, regulations, ordinances or executive orders, including, without limitation, all labor, employment and anti-discrimination laws, and all provisions required thereby to be included herein are hereby incorporated by reference (all of the foregoing being sometimes referred to collectively as the "Governing Laws and Regulations").

16. REPRESENTATIONS, WARRANTIES AND COVENANTS

Vendor hereby represents and warrants to the TEL, on its own behalf and on behalf of each member of the Vendor Team, as follows:

(a) Vendor and each other member of the Vendor Team are and will remain at all times during the term of this Agreement duly organized and in good standing under the laws of the respective jurisdictions under which they are organized or incorporated. Vendor and each other member of the Vendor Team have the power and authority to execute and deliver and perform their obligations under this Agreement, and Vendor and each other member of the Vendor Team have taken all necessary and appropriate action to authorize the execution and delivery of this Agreement and the performance of their obligations under this Agreement. The execution and delivery of this Agreement and the performance of their obligations under this Agreement are not in contravention of any provisions of law or any material indenture or agreement by which Vendor or any other member of the Vendor Team is bound and do not require the consent or approval of any governmental body, agency, authority or other person or entity which has not been obtained. This Agreement constitutes the valid and legally binding obligation of Vendor and each other member of the Vendor Team, enforceable against them in accordance with its terms.

(b) Vendor and each other member of the Vendor Team have disclosed or will disclose to the TEL all matters required to be disclosed under the Governing Laws and Regulations. In addition, Vendor and each member of the Vendor Team recognize and acknowledge that there are certain limitations on their activities, and the activities of their subcontractors, now and in the future, including, but not limited to, limitations on the ability to enter into or perform contracts or other arrangements with certain third parties, and limitations on the ability to purchase lottery tickets, all of which shall be observed. Some of these restrictions also apply to the employees of the members of the Vendor Team and the members of such employees' households, and each member of the Vendor Team will enforce such restrictions upon its employees and subcontractors.

(c) Neither Vendor, the Subcontractors, nor any of its or their respective officers, directors, partners or major shareholders has ever been found guilty of a felony related to the security or integrity of any lottery or gaming operation in any jurisdiction.

(d) Neither Vendor, the Subcontractors, nor any of its or their respective officers, directors, partners or major shareholders has an ownership interest in any entity that has supplied consultation services under contract to the TEL with respect to the RFP.

(e) No “public officer” (as defined in T.C.A. § 8-50-501(a)), or an employee of such officer, has an ownership interest of one percent (1%) or more in Vendor or any of the other members of the Vendor Team.

(f) No employee of the TEL has a financial interest in the Vendor or any of the other members of the Vendor Team.

(g) To the extent required by applicable law, Vendor and each member of the Vendor Team are, and will remain at all times during the term of this Agreement, qualified to do business in the State of Tennessee.

(h) All Work Product: (i) shall be prepared, worked on and completed solely by employees of Vendor or a member of the Vendor Team in the scope of their employment or by independent contractors of Vendor or a member of the Vendor Team working under the strict and direct supervision of such employees; (ii) shall be original works of authorship; (iii) shall not infringe, plagiarize, pirate or constitute misappropriations, infringements or unauthorized uses or disclosures of any copyrights, trademarks, service marks, trade names, confidential information, trade secrets or other intellectual properties or proprietary rights of any individuals or entities; and (iv) shall not be false, misleading, actionable, defamatory, libelous or constitute an invasion of privacy of any individual or entity. To the extent that any Work Product is prepared, worked on or completed by independent contractors of Vendor, or a member of the Vendor Team, Vendor shall be responsible for seeing that all independent contractors of Vendor, or of any member of the Vendor Team, execute and deliver to the TEL any transfers, assignments, documents or other instruments which the TEL may deem necessary or appropriate from time to time, to vest complete title and ownership of the Work Product, and all intellectual property and other rights therein, exclusively in the TEL.

(i) Neither Vendor nor any other member of the Vendor Team, nor any of its or their respective employees, officers, directors, partners or major stockholders, shall issue any press release, conduct any press or news conference, participate in any media interview or otherwise make any public statement or announcement on behalf of, with respect to or in connection with this Agreement or the TEL without the express prior written consent of the CEO or his/her designee(s) in each instance.

(j) Neither Vendor nor any other member of the Vendor Team, nor any of its or their respective employees, officers, directors, partners or major stockholders, shall use the TEL’s names, trademarks, service marks, logos, images or any other information or data related to the services to be provided pursuant to this Agreement as a part of or in connection with any commercial advertising or proposal without the express prior written consent of the CEO or his/her designee(s) in each instance.

(k) All products and services provided by the Vendor Team used in connection with this Agreement shall in all respects meet the requirements, performance standards and specifications of the RFP, the Proposal, the Answers and this Agreement.

(l) All equipment and components provided by the Vendor Team shall be new and shall conform to the manufacturer’s current official published specifications. All such equipment and components not manufactured by the Vendor Team shall carry manufacturer warranties of merchantability and warranties against defects in materials and workmanship, all of which are enforceable

or available to the TEL without additional charge or action. All adjustments, repairs and replacement parts necessary to maintain such equipment and components in good working order shall be promptly provided and performed by Vendor. Any such equipment requirements set forth herein shall be replaced by Vendor as soon as feasible and without cost to TEL.

(m) Vendor and the other members of the Vendor Team shall keep all of their equipment used in connection with this Agreement in good condition and repair and shall make all reasonable efforts to prevent anything that may materially impair the operations thereof. Such equipment shall not be used in violation of this Agreement, the RFP or any of the Governing Laws and Regulations, and neither Vendor nor any other member of the Vendor Team shall encumber such hardware or equipment or otherwise dedicate the use of such hardware or equipment in such a way as to compromise the ability of any member of the Vendor Team to perform its obligations under this Agreement.

(n) All systems analysis, systems design and programming prepared or done by Vendor or any other member of the Vendor Team in connection with this Agreement, the RFP or the Proposal have been and shall be prepared or done in a workmanlike manner consistent with the highest professional and technical guidelines and standards of the industry in which Vendor is engaged.

(o) All Lottery tickets provided by the Vendor Team pursuant to this Agreement shall in all respects conform to, and function in accordance with, their specifications and designs, as approved by TEL. Without limiting the generality of the foregoing, Vendor warrants that the actual prize pool will be within the limits agreed to by the parties in the "Working Papers" as mutually agreed upon by the TEL and the Vendor for each new game.

17. OBLIGATIONS OF VENDOR

(a) Vendor shall provide to the TEL on an annual basis updated certificate(s) of existence showing that it and each member of the Vendor Team are qualified to transact business in the State of Tennessee.

(b) Vendor agrees to fully disclose to the TEL all matters materially affecting the TEL, this Agreement or the performance of this Agreement and all matters reasonably necessary to perform background and security investigations with respect to Vendor, the Subcontractors, their respective officers, directors, partners, major shareholders and employees, and the individuals performing services pursuant to this Agreement or otherwise for the benefit of the TEL. In addition, Vendor acknowledges that some or all of its employees, officers, directors, partners and major shareholders, and its approved subcontractors and their respective employees, officers, directors, partners and major shareholders, may be required to submit to background and other investigations, and Vendor shall cause any such individuals or subcontractors to fully cooperate with any such investigations and to provide all necessary information and authorizations in connection therewith. Vendor further agrees that it will routinely and continuously update all information disclosed to the TEL pursuant to this Agreement or the RFP, including, without limitation, the representations and warranties set forth in Section 16 hereof, no less often than quarterly; provided, however, Vendor shall immediately notify TEL upon the occurrence of any event the effect or results of which Vendor would be required to disclose, or to update a previous disclosure, to TEL under this Agreement or the RFP and which is reasonably likely to materially affect the TEL, Vendor, the Subcontractors, any of their respective officers, directors, partners, major shareholders or employees, this Agreement or the performance of this Agreement.

(c) Vendor must, contemporaneously with the execution of this Agreement, post with the TEL a performance bond or letter of credit from a bank or credit provider acceptable to the TEL

in an amount equal to \$2 Million Dollars (\$2,000,000.00), unless such bond or letter of credit is replaced by alternate security as authorized under T.C.A. § 4-51-114. The security provided by Vendor pursuant to this Section 17(c) shall provide funds to the TEL in the event the TEL suffers any liability, loss, damage or expense as a result of Vendor's failure to fully and completely perform all of the requirements contained in this Agreement, including, without limitation, Vendor's obligation to pay any liquidated damages due hereunder or to indemnify the TEL pursuant hereto.

(d) Vendor shall maintain the following types and amounts of insurance during the term of this Agreement:

- (i) General liability insurance in the amount of at least \$5,000,000.00;
- (ii) Property insurance in the amount of at least \$5,000,000.00;
- (iii) Errors and omissions insurance, including over-redemption insurance, in the amount of at least \$5,000,000.00;
- (iv) Vehicle insurance in the amount of at least \$2,000,000.00;
- (v) Crime insurance in the amount of at least \$5,000,000.00; and
- (vi) Such other types and amounts of insurance as the TEL shall from time to time reasonably require.

(e) Vendor shall provide the TEL with certificates of insurance within ten (10) days after the date hereof and evidence of any renewed bonds or insurance policies within five (5) days prior to the expiration of the then existing bonds or insurance policies. All bonds and insurance required of Vendor by this Agreement must be issued by companies or financial institutions which are financially rated A or better by a nationally recognized rating agency and duly licensed, admitted and authorized to transact business in the State of Tennessee.

(f) Vendor agrees to escrow the source codes to all applicable software and other similar proprietary materials developed or provided by any member of the Vendor Team in connection with its or their performance under this Agreement, in accordance with a Source Code Escrow Agreement reasonably acceptable to the TEL., to be entered into subsequent to the execution of this Agreement.

(g) Vendor shall, at its own expense, conduct trademark and service mark searches with respect to the names of all instant ticket games provided by the Vendor Team for use in connection with the Lottery. New trademarks and service marks developed for the TEL will be registered in the name of the TEL for its sole use in Tennessee.

(h) Vendor shall lease mutually agreeable office space from the TEL at the TEL's main office, under the same terms and conditions as required by the TEL from its landlord—USAA Realty Company—or its successors and assigns. Vendor shall allow any authorized representatives of the TEL to inspect, without notice and at reasonable times, the plants, places of business and job sites of any member of the Vendor Team that are being used in connection with the performance of this Agreement. Vendor shall not change the location of its computer system, offices, warehouse, press or service facilities used in connection with this Agreement without the prior written approval of the TEL.

(i) At the election of Vendor, tickets printed pursuant to this Agreement may be printed, as specified in the Working Papers for each game, “four or five across the web” (as such term is generally defined in the lottery printing business), subject to standard trade tolerances.

(j) Unless the parties hereto otherwise mutually agree, all tickets printed by Vendor pursuant to this Agreement shall contain full UV coating over the entire front surface of the ticket.

(k) Vendor will provide five hundred (500) PlayCentral™ instant ticket vending machines with a minimum of sixteen (16) bins each and with report gathering capabilities. As mutually agreed by TEL and Vendor, the bins on certain machines will be upgraded to contain more tickets when justified by increased ticket demand at particular retailer locations. Vendor will provide the TEL with available sales data from its host system, as requested. As determined by the TEL, vending machines will be provided on an “as needed” basis as retailer locations are established and will not be ordered until such time as retailer locations are established and TEL provides Vendor with a list of approved machine locations.

(l) Vendor will provide 30,000 instant ticket dispensers and locking mount stand annually. Locking mount stands will be provided in the ratio of one stand for eight dispensers. The TEL shall be entitled to substitute differing ticket dispenser models provided that the cost of the substituted models is the same as the models originally supplied by Vendor.

(m) Vendor shall assume full financial responsibility for picking up any tickets printed by Vendor that the TEL and Vendor agree must be picked up as a result of exigent circumstances.

(n) Vendor may be required each year to warehouse and distribute up to four proprietary or patented instant ticket games purchased by the TEL from other vendors. These tickets will be distributed along with Vendor’s tickets and Vendor will not be reimbursed for packaging, warehousing and distributing these tickets, nor will Vendor be paid a percentage of sales when these tickets are sold. Vendor may also be required to include reasonable additional materials, at no additional cost to the TEL, in packages containing tickets to Lottery retailers.

(o) All tickets provided to the TEL by Vendor must pass all lottery industry standard security tests. Vendor shall establish and maintain a physical plant, ticket and distribution security program that is acceptable to the TEL and shall adhere to all security requirements established from time to time by the TEL.

(p) Vendor and each other member of the Vendor Team shall establish and enforce a code of conduct for their respective employees, vendors, suppliers and independent contractors to ensure that Vendor and each other member of the Vendor Team comply with the rules and procedures established by the TEL.

(q) Vendor and each other member of the Vendor Team will promptly disclose all written and oral agreements any of them have with any lobbyists or consultants working on their behalf in the State of Tennessee or before the United States government, and, upon the written request of the TEL, they will immediately provide copies thereof to the TEL. Notwithstanding anything else contained herein to the contrary, the TEL may terminate this Agreement upon notice to Vendor in the event Vendor or any other member of the Vendor Team fails to comply with the provisions of this Section 17(q).

(r) Vendor will supply consumable goods (i.e., labels and invoices) for the picking and packing printers located at the SGI warehouse for use with Vendor's ticket ordering and inventory control system.

(s) Vendor has agreed to provide an Equal Business Opportunity ("EBO") Program, which will include minority subcontracting opportunities and business development as outlined in Exhibit A., Vendor's EBO Program shall generate a minority business participation level of fifteen percent (15%) received from the TEL. Vendor's grant in the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) (the "Grant") shall be provided pursuant to a schedule mutually acceptable to Vendor and the TEL over the term of this Agreement, to form, via a contribution of the entire Grant, an educational joint venture with Tennessee's historically black colleges and universities. The Grant shall count toward Vendor's expenditures under the EBO Program. The Grant shall be utilized to create a job training internship program enabling students to enhance their skills in one of the following disciplines: technology, marketing, advertising, legal, security, accounting, communication, finance and government relations. While this educational joint venture will generate income for the participants, the ultimate goal is to provide significant on-the-job training leading to the development of skills useful in obtaining permanent employment with Vendor, the TEL or other corporations both within and outside the lottery industry. Vendor will submit on a monthly basis EBO Form "D", included as Attachment F to the RFP, certifying all payments made to Minority-Owned Businesses. In addition, Vendor will provide the TEL with quarterly reports detailing its activities in compliance with its total EBO efforts. Vendor's EBO Program will be reviewed after June 30, 2004, and annually thereafter. Failure to comply with the terms of this Section may be deemed a breach, which may give rise to the TEL's termination rights pursuant to Section 19 of this Agreement. It is understood that the first such review will be undertaken prior to the first anniversary date of this Agreement. Appropriate adjustment, if any, shall be made to account for such time period of less than one (1) year. It is the intent of the parties that every effort be made to locate and build the capacity of Tennessee based minority owned businesses. Where those capacities can be demonstrated and acceptable pricing can be arranged, Vendor will use such minority owned businesses to fulfill its commitment under this Agreement.

(t) Marketing Services— During the Start-Up period Vendor will provide ten sales and marketing consultants to assist with retailer recruitment, training and marketing and promotional activities. Commencing on the first full month after Instant Ticket Implementation Date, Vendor will provide to the TEL a marketing allowance of up to Seven Thousand Five Hundred Dollars (\$7,500) per month during the term of this Agreement. Such allowance shall be used solely to enhance the sale of instant tickets. Any portion of the allowance which is unused in the six (6) month period commencing with the first full month after Instant Ticket Implementation Date, and each six (6) month period thereafter, shall not be carried over to the following six (6) month period.

(u) Vendor will provide two (2) high-resolution monitor to facilitate press checks.

(v) Vendor will provide void instant tickets for all games and oversized tickets for selected games, as mutually agreed by the parties.

(w) Vendor shall establish and maintain a physical and software security program that is reasonably acceptable to the TEL and shall adhere to all reasonable written security requirements established by the TEL from time to time.

18. TAXES

The TEL will not be responsible for any taxes levied on Vendor or any member of the Vendor Team as a result of the execution, delivery or performance of this Agreement. Vendor shall pay and discharge any and all such taxes in a timely manner. Subject to any sales or use tax exemption, deduction or credit that is available, which Vendor hereby agrees to utilize, take and apply, Vendor will pay any sales or use taxes properly due and payable in connection with the instant tickets, instant ticket dispensers and instant ticket vending machines which are deliverables to the TEL pursuant to this Agreement and which are acquired for and utilized and provided exclusively and directly to the TEL pursuant to this Agreement. To the extent any such sales or use taxes are in the TEL's reasonable opinion properly due and paid by Vendor, the TEL shall promptly reimburse Vendor. To the extent of any questions or conflicts with respect to the application or interpretation of any sales or use taxes, the TEL and Vendor shall in good faith reach a mutually agreed upon resolution with respect thereto.

19. TERMINATION

(a) Notwithstanding anything herein to the contrary, TEL may cancel and terminate this Agreement (i) if Vendor fails to correct or cure any breach of any of Sections 7(b), 16(c), 16(d), 16(e), 16(h), 17(b), 17(c), 17(h), 17(s) or (17w) of this Agreement (the "Major Sections") within seventy-two (72) hours of the earlier of: (A) Vendor having knowledge of such breach or such time at which Vendor should have reasonably known of such breach; or (B) Vendor receiving oral or written notice of such breach from TEL; or (ii) if Vendor fails to correct or cure any breach of any other provisions or Sections of this Agreement, other than Major Sections, after ten (10) calendar days' prior written notice from TEL.

(b) If TEL, after thirty (30) calendar days prior written notice from Vendor, fails to correct or cure any material breach of this Agreement, then Vendor may cancel and terminate this Agreement and in due course collect monies properly due up to and including the date of such termination.

(c) In the event that either party hereto is unable to perform any of its obligations under this Agreement, or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies, or other events of force majeure not the fault of the affected party, the affected party shall immediately give notice to the other party and shall use its best efforts to resume performance. Upon receipt of such notice, each party's obligations under this Agreement shall be immediately suspended. Any such causes of delay or failure shall, in the exercise of reasonable diligence, extend the period of performance, for a reasonable period, until after such causes of delay or failure have been removed. However, if delays resulting from any foregoing causes extends for more than one hundred eighty (180) days and the parties have not agreed upon a revised basis for continuing the work at the end of the delay, including adjustment for price, then either party, upon thirty (30) days written notice may terminate this Agreement and in due course collect monies properly due up to and including the date of such termination.

(d) If, for any reason other than a breach of this Agreement by TEL, the Vendor Team is unable to perform its obligations hereunder, TEL shall acquire a usufruct in all property owned by any member of the Vendor Team which is used in conjunction with, and is necessary to, the performance of this Agreement.

20. LIQUIDATED DAMAGES

(a) Notwithstanding anything herein to the contrary, Vendor shall be liable to TEL for liquidated damages as follows:

- (i) Delay in the Start of a Game. In the event the start of any Lottery instant ticket game occurs after the start date established in the executed Working Papers for such game (a "Game Start Date") as a result of Vendor's actions or omissions, Vendor will be assessed liquidated damages in an amount equal to ten thousand dollars (\$10,000.00) per day with respect to each day after such Game Start Date until the date on which the TEL can reasonably begin such instant ticket game;
- (ii) Shortage of Tickets. In the event the TEL is unable to fill orders from its retailers for Lottery instant tickets for any Lottery instant ticket game as a result of Vendor's actions or omissions, Vendor will be assessed liquidated damages in an amount equal to ten thousand dollars (\$10,000.00) per day that such shortage continues;
- (iii) Failure to Distribute Tickets within Two (2) Business Days of Ordering. In the event Vendor fails to distribute tickets in accordance with this Agreement within two (2) business days of notice of the TEL's ordering, Vendor will be assessed liquidated damages in an amount equal to fifty dollars (\$50.00) per day, per retailer, with respect to each day after such two day period until the date on which such Lottery instant tickets are actually delivered by Vendor;
- (iv) Security Violations. In the event of any unauthorized access by any person to any Lottery instant ticket printing, storage, packaging or warehousing areas, or any theft of or tampering with any Lottery instant tickets in any such area, Vendor will be assessed liquidated damages in an amount equal to one thousand dollars (\$1,000.00) per occurrence. Vendor shall take steps to prevent unauthorized access to the computer system and data files used in its duties. Upon detection of any attempt of unauthorized access to the computer system and/or data files, the Vendor shall notify the TEL's chief security officer immediately upon detection and shall take all actions requested by the TEL to limit or minimize the disruption, threat or damage resulting there from. Vendor will be assessed liquidated damages in an amount equal to ten thousand dollars (\$10,000.00) per occurrence for failure to follow the agreed upon procedures. Should any one of the security systems at the warehouse fail, the Vendor shall report the outage to the TEL's chief security officer immediately upon detection and shall take all actions requested by the TEL to limit or minimize the disruption, threat or damage resulting there from. Vendor will be assessed liquidated damages in an amount equal to five thousand dollars (\$5,000.00) per occurrence for failure to follow the agreed upon procedures;

- (v) Untimely Vending Machine Repair. In the event any Lottery instant ticket vending machine is not repaired by Vendor within two (2) days after Vendor's receipt of notice thereof, Vendor will be assessed liquidated damages in an amount equal to fifty dollars (\$50.00) per machine per day with respect to each full day after such initial two (2) day period that such machine remains un-repaired;
- (vi) Untimely Reports. Vendor and the TEL will mutually agree as to the types of reports to be provided and the time of delivery of such reports. In the event Vendor fails to deliver such reports to TEL by the agreed upon time, Vendor will be assessed liquidated damages in an amount equal to one hundred dollars (\$100.00) per day that it is late per report;
- (vii) Working Papers-Untimely or Unauthorized Modifications. Vendor and the TEL will mutually agree as to the format of Working Papers to be provided and the time of delivery of such Working Papers. In the event Vendor fails to deliver such Working Papers to the TEL by the agreed upon time, Vendor will be assessed liquidated damages in an amount equal to one thousand dollars (\$1,000.00) per day that it is late per Working Papers. Vendor shall not make any material modifications to executed Working Papers without the prior written approval of TEL. In the event Vendor breaches the foregoing sentence, Vendor will be assessed liquidated damages in an amount of one thousand dollars (\$1,000.00) per occurrence;
- (viii) Claimed Prize Tickets Not Approved by the TEL. In the event a TEL instant ticket has been printed and validated as a winning ticket and is paid but was not approved or authorized as such by TEL as part of the overall prize structure, Vendor will be assessed liquidated damages in an amount equal to the prize paid on such ticket;
- (ix) Defective or Nonconforming Tickets. In the event a TEL instant ticket appears on its face to be a winning ticket, but has not been validated as such, is presented for payment, Vendor will be assessed liquidated damages in an amount equal to the prize paid on such ticket, unless such apparent winning ticket is a counterfeit ticket, or the caption does not match the prize symbol, or it has been tampered with in any manner; and in any event, such ticket shall be presented to Vendor for examination and analysis; and
- (x) Incomplete or Incorrect Game Validation Files. In the event a TEL instant ticket validation file produced by Vendor is incomplete or incorrect, Vendor will be assessed liquidated damages in the amount of one thousand dollars (\$1,000.00) per occurrence.
- (xi) Failure to Fulfill the Minority Participation Commitment. The TEL will monitor and review Vendor's progress monthly through Vendor's submission of EBO Form "D". Annually, the TEL will evaluate Vendor's EBO expenditures. In the event Vendor fails to provide a minority participation level of fifteen percent (15%), Vendor shall be

assessed liquidated damages in the amount of \$100,000 for every percentage point by which it fails to meet said commitment. Said funds shall be utilized to further expand the TEL's EBO Program, including the college internship program, as set forth in Section 17(s) of this Agreement.

(b) Vendor and the TEL hereby acknowledge and agree that:

- (i) the TEL's damages following the occurrence of any event set forth in Section 20(a) hereof are difficult or impossible to accurately estimate or calculate;
- (ii) the liquidated damages amounts set forth in Section 20(a) hereof constitute reasonable estimates of the TEL's damages following the occurrence of any such events;
- (iii) it is their mutual intention that Section 20(a) hereof provide for liquidated damages to compensate the TEL upon the occurrence of such an event, rather than penalties to deter Vendor from breaching this Agreement and/or to punish Vendor upon the occurrence of such an event; and
- (iv) to the extent an event occurs for which liquidated damages are assessable under more than one subsection of subparagraph (a) above, the TEL shall not be entitled to recover under multiple subsections for the same event.
- (v) Notwithstanding the foregoing provisions of this Section 20, the TEL shall have the right, in its sole discretion, to waive (in whole or in part) payment by Vendor of any liquidated damages due hereunder, but TEL must assess liquidated damages within six (6) months of the incident or such liquidated damages are waived. A waiver in any one instance shall be strictly limited to that specific instance and shall not in any way constitute or be construed to constitute a waiver of the payment of any other liquidated damages that are or may become due hereunder.
- (vi) Vendor is not liable for liquidated damages for any of the foregoing with respect to instant tickets not produced by Vendor and is not liable for system malfunctions caused by defective or improperly produced data or validation files in connection with such tickets not produced by Vendor.
- (vii) The TEL shall notify Vendor in writing of a proposed assessment of liquidated damages prior to such assessment becoming due and payable. Vendor shall have the right to protest any such assessment within ten (10) business days of its receipt of the notice. In the event Vendor does protest an assessment of liquidated damages, it shall propose a time for the parties to discuss such assessment. The TEL shall provide Vendor with a written response to any such discussions within ten (10) days of the date they take place.

(c) The TEL and Vendor agree that the TEL may, at its option, (i) require Vendor to pay such liquidated damages directly to the TEL or (ii) offset the amount of such liquidated damages against any amounts owed by the TEL to Vendor.

21. INDEMNIFICATION

(a) Vendor agrees to indemnify, defend and hold harmless the TEL, its directors and officers, the State of Tennessee and its agencies and political subdivisions, and their respective agents, officers and employees, against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, caused by or resulting from any breach of this Agreement by any member of the Vendor Team or any other act or omission of Vendor, the Subcontractors, any member of the Vendor Team or any of its or their respective agents or employees, whether the same may be the result of negligence, responsibility under strict liability standards, any other substandard conduct.

(b) Vendor agrees to indemnify, defend and hold harmless the TEL, its directors and officers, the State of Tennessee and its agencies and political subdivisions, and their respective agents, officers and employees, against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, arising out of, in connection with or resulting from the development, possession, license, modifications, disclosure or use of any copyrighted or non-copyrighted composition, trademark, service mark, service process, patented invention or idea, confidential information, trade secret, article or appliance furnished to the TEL, or used in the performance of this Agreement, by any member of the Vendor Team.

22. DISPUTE RESOLUTION PROCEDURES

Any and all claims, disputes or controversies arising in connection with this Agreement must be made in accordance with the Tennessee Education Lottery Corporation – Dispute Resolution Procedures established by the TEL Board of Directors (as the same may be amended from time to time).

23. NOTICES

(a) All notices and statements provided for or required by this Agreement shall be in writing, and shall be delivered personally to the other designated party, or mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service, as follows:

If to TEL: Tennessee Education Lottery Corporation
Plaza Tower, MetroCenter
200 Athens Way
Nashville, Tennessee 37228
Attn: Rebecca G. Paul, Chief Executive Officer

If to Vendor: Scientific Games International, Inc.
1500 Bluegrass Lakes Parkway
Alpharetta, Georgia 30004
Attn: John J. Walsh, Senior Vice President

(b) Either party hereto may change the address or individual to which notice is to be sent by written notice to the other party in accordance with the provisions of this Section 23.

24. MISCELLANEOUS

(a) This Agreement, together with the Proposal, the Questions and Answers and the RFP, all of which are incorporated herein by reference, contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Agreement may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision of this Agreement or of any default hereunder shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.

(b) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TENNESSEE, AND ANY CAUSE OF ACTION ARISING HEREUNDER MUST BE BROUGHT IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE. VENDOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY PROCEEDING WHICH IS BROUGHT IN SUCH A COURT.

(c) Vendor shall not assign this Agreement, in whole or in part, without the prior written consent of the TEL, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect. For purposes of this Section 24(c), the transfer or sale of a controlling equity interest in, or substantially all of the assets of, Vendor will be deemed an assignment for which the TEL's consent is required.

(d) This Agreement shall be binding on and inure to the benefit of Vendor, and its Subcontractors, successors and permitted assigns.

(e) The headings contained herein are for the convenience of the parties only and shall not be interpreted to limit or affect in any way the meaning of the language contained in this Agreement.

(f) This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.

(g) If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision of this Agreement shall be affected as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.

(h) Upon the request of the TEL, Vendor agrees to take, and to cause any other member of the Vendor Team to take, any and all reasonable actions, including, without limitation, the execution of certificates, documents or instruments, necessary or appropriate to give effect to the terms and conditions set forth in this Agreement.

25. ADDITIONAL SERVICES

In the event the TEL desires to retain the services of Vendor for activities in addition to those contemplated by this Agreement, payment therefore shall be as agreed upon by the parties. Any such services, the rates, and the terms of payment shall be approved, in writing, prior to the commencement of any such additional work. In no event shall Vendor or any member of the Vendor Team be paid for work not authorized, or for work in excess of that authorized, in writing by the TEL.

26. REQUIRED INVESTIGATIONS

The TEL and Vendor hereby agree that this Agreement, and all of the terms and conditions contained herein, is subject to the completion of all criminal and other background investigations required by the Act or the TEL Policies. This Agreement will not be binding upon the TEL or the Vendor until the completion of all such investigations.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement to be effective as of the day and year first above written.

“TEL”

TENNESSEE EDUCATION LOTTERY CORPORATION

By: _____

Its: _____

“Vendor”

SCIENTIFIC GAMES INTERNATIONAL, INC.

By: _____

Its: _____

EXHIBIT A

COMMITMENT TO NON-DISCRIMINATION

TENNESSEE EDUCATION LOTTERY CORPORATION

EQUAL BUSINESS OPPORTUNITY PROGRAM

EBO FORM B**MINORITY-OWNED BUSINESS UTILIZATION PLAN****(TO BE SUBMITTED WITH THE BID/PROPOSAL)****Company: Scientific Games International, Inc.****RFP: *Instant Ticket Lottery Game Services*****Scientific Games International, Inc.** certifies that on the following procurement opportunity,

Instant Lottery Game Services, the following minority-owned businesses may be utilized as

subcontractors, vendors, suppliers, or provide professional services:

Name	Description of Work	Contract Value	Joint Venture (Yes/No)	% of Minority Ownership	Certified (Yes/No)	Certification Agency
A-1 Printing	Oversize Sample Printing	\$60,000	NO	100%	YES	TMSDC
McMurr's Printing Prod.	General Printing Services	backup	NO	100%	YES	TMSDC
Omni Staffing Plus	Temporary Staffing	TBD	NO	100%	YES	TMSDC
Arvie Personnel Services	Temporary Staffing	\$15,000 year 1	NO	100%	YES	TMSDC
Corporate Courier & OMNI Cargo Express (Joint Venture)	Courier Service	\$150,000 per year	NO	100%	YES	TMSDC
Home Care	Janitorial	\$25,000 per year	NO	100%	YES	TMSDC
Benco Office Supplies	Office Supplies	\$25,000 year 1	NO	100%	YES	TMSDC
Business Assets	Warehouse Supplies	\$30,000 per year	NO	100%	YES	TMSDC

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Hesmet/TIMCO, LLC	Lottery Playstations & Ticket Dispensers	Not certified yet	NO	100%	NO	MMBC SBA
IMAGES USA Clay Associates (Joint Venture)	Market Research & Support	\$100,000 per year	NO	100%	YES	GMSDC TNSDC
Hawkins Group	Ink Supplies	\$565,000 per year	NO	100%	YES	GMSDC
MPI Business Solutions	Office Supplies	\$7,500 per year	NO	100%	YES	NMSDC
Rite Quality Office Supplies	Office Supplies	\$3,500 per year	NO	100%	YES	NMSDC
Tate Computer Systems	System Supplies	TBD	NO	100%	YES	TMSDC
Thomas Services, Inc. & VP Vending Services (Joint Venture)	Vending Machine Installation & Repair	\$210,000 per year	NO	100%	YES	TMSDC
Specialized Communications Co.	Telecom Installation and Service	Wiring for vending machines - \$25,000 year 1	NO	100%	YES	TMSDC

TOTAL COMMITMENT VALUE: Approximately \$1,216,000 for the first year and approximately \$1,151,000 per year thereafter for a total of \$8,122,000 over the seven year term of the Agreement. Vendor's compensation is based on a percentage of the TEL's sales of instant tickets. Consequently, the contract values noted herein are estimates based on anticipated revenue and budget amounts. Contract values may vary based upon a number of factors, but the total percentage of minority owned business participation will equal or exceed 15% of Vendor's revenues from the TEL. Vendor at all times reserves the right to add, adjust and replace certified minority owned businesses in accordance with prudent business practices, but all such minority owned businesses shall nonetheless be certified. It is understood that certain expenses qualifying hereunder were incurred by Vendor prior to the date of the Agreement, in preparation for Start-Up.

TOTAL % OF MINORITY BUSINESS PARTICIPATION: At least 15% of Vendor's revenues from the TEL
The successful bidder/proposer is required to finalize and submit this form prior to execution of a contract. Joint Venture Agreements, partnering agreements and all pertinent information must be presented in accordance with Section 3(b) of this Agreement. The finalized EBO Form B shall not be changed or altered after award of a contract without approval from the Corporation. The Vendor is required to provide written notice describing the reasons for the change to the Corporation to obtain approval of any changes to EBO Form B.

Submitted by:

INSTANT TICKET PRINTING AND ASSOCIATED SERVICES AGREEMENT

Authorized Representative Signature

Title

Date